IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 1957 of 2005

Between:

Gude Hari Babu S/o Venkatapapaiah
R/o Kothapalem Village, Macavaram Madnal, Guntur District

..... PETITIONER

AND

1 District Level Committee (Sand), Guntur District rep by Chairman, i.e. Chairman Zilla Parishad, Guntur
2 The District Collector, Guntur District, Guntur
3 The District Panchayat Officer, Guntur and Member Convenor District

Level Committee Sand, Guntur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order or orders or direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in issuing proceedings Roc. No. 3660/2003-G2 (R-13) dt 2-2-2005 canceling the lease extension granted for a period of 95 days vide proceedings dt 22-9-2004 pursuant to the Resolution of the District Level Committee dt 15-9-2004 as illegal, arbitrary against the principles of natural justice and set a side the same and consequentially direct the respondents herein to continue the petitioenr in lease of Sand quarry Reach No. 13, near Amaravathi and Dharanikota Village as per the orders of the 3rd respondent pass in Roc. No. 3660/2003- G2(R-13), dt 22-9-2004 forthwith and pass such other order or orders in the interest of justice.

Counsel for the Petitioner: MR.M.L.ALI

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

ORDER:

The petitioner was granted lease in respect of Reach No.13 of Amaravathi and Dharanikota villages through public auction conducted on 12.01.2004 and the lease period was from 21.08.2004 to 28.01.2005. It appears that initially the petitioner was allotted the ramp at 32.00 KM. But, subsequently due to certain reasons under the proceedings dated 23.08.2004, the petitioner was provided an alternative ramp at 35.00 KM. It also appears that the petitioner made a representation on 10.09.2004 requesting for extension of lease period on the ground that he could not carry on quarrying during certain periods which include 82 days from 19-06-2004 to 09-09-2004 due to closure of Reach in connection with Krishna Pushkarams. Having considered the request of the petitioner, the District Level Committee vide Resolution No.4 dated 15.09.2004 resolved to extend the lease by 95 days. The said decision of the District Level Committee was communicated to the petitioner by the District Panchayat Officer, Guntur by proceedings dated 22.09.2004. Accordingly, the petitioner has been continuing as on today. While so, the District Panchayat Officer, Guntur vide proceedings dated 2-2-2005 informed the petitioner that the matter has been re-examined by the District Level Committee and vide Resolution No.9 dated 01.02.2005, it was resolved to cancel the extension granted earlier under Resolution 4, dated 15.09.2004, except for a period of 12 days. Aggrieved by the same, this writ petition is filed.

The learned Counsel for the petitioner primarily contends that the

impugned resolution passed by the District Level Committee cancelling the extension already granted, without affording any opportunity to the petitioner is arbitrary and illegal and in violation of the principles of natural justice.

The learned Government Pleader for Panchayat Raj and Rural Development under instructions states that the impugned Resolution was passed on the basis of a report of the Vigilance and Enforcement Department dated 07.12.2004. A copy of the said report has been placed before this Court which shows that on enquiry, it was found by the Vigilance and Enforcement Department that the petitioner never stopped the quarrying in Reach No.13 during the period from 19-06-2004 to 09-09-2004 in spite of the Status Quo orders from the District Level Committee and even unused way bills were not handed over in violation of the conditions of the agreement. On the basis of the said report, it appears that the District Level Committee having re-examined the matter granted extension only for a period of 12 days instead of 95 days granted under the Resolution No.4 dated 15.09.2004.

From the impugned proceedings, it is clear that the decision taken on 15-09-2004 granting extension for 95 days was re-considered on the basis of certain allegations as found in the report of the Vigilance and Enforcement Department dated 07.12.2004 and a revised order has been passed reducing the period of extension already granted and undoubtedly the said revised decision is to the detriment of the petitioner. If that be so, the principles of natural justice require affording a reasonable opportunity to the petitioner to rebut the said allegations before taking any decision. Since no such opportunity was given to the petitioner, I am of the view that the matter requires re-consideration.

Accordingly, the writ petition is disposed of with a direction to the District Level Committee, Guntur to re-consider the decision taken on 01.02.2005 vide Resolution No.9 to cancel the extension of lease granted in favour of the petitioner in Resolution No.4, after issuing a

notice to the petitioner to explain the allegations as specified in the report of the Vigilance and Enforcement Department, dated 07.12.2004 and after considering the explanation, if any, submitted by the petitioner. Such notice shall be issued within a period of three days from the date of receipt of this order and the decision shall be taken afresh within one week thereafter. In the meanwhile, the petitioner is granted liberty to make an appropriate application before the District Level Committee, Guntur to permit him to carry on the sand quarrying operations in Reach No.13.

The writ petition is accordingly disposed of. No costs.

_____

08.02.2005

VGB

To

1 The Chairman, i.e. Chairman Zilla Parishad, Guntur, District Level

Committee (Sand), Guntur District.

2 The District Collector, Guntur District, Guntur
3 The District Panchayat Officer, Guntur and Member Convenor District

Level Committee Sand, Guntur

4 2CCs to the G.P. for Panchayat Raj and Rural Development, High Court

Buildings, Hyderabad (OUT)

5 2CD copies